

Appln. No. 10/700,949
Amendment dated October 7, 2005
Reply to Office Action mailed July 7, 2005

REMARKS

Reconsideration is respectfully requested.

Entry of the above amendments is courteously requested in order to place all claims in this application in allowable condition and/or to place the non-allowed claims in better condition for consideration on appeal.

Claim 10 remains in this application. Claims 1 through 9 and 11 have been cancelled. No claims have been withdrawn or added.

Paragraphs 1 through 6 of the Office Action

Claims 1 through 9 and 11 have been rejected under 35 U.S.C. §102(b) as being anticipated by Anderson.

Claim 10 has been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Anderson in view of Shipstead, Bugge, and Mertz.

Claim 10 requires "a resiliently deformable pad being *removably mounted* on said strap in said foot loop, wherein a hook and loop fastener removably mounts said pad to said strap in said foot loop". This feature of the invention permits the pad to securely and accurately positioned with respect to the foot loop, yet permits removal of the pad for storage or washing.

The rejection of the Office Action alleges that Anderson, in view of Shipstead, suggests the pad of the invention, but assuming just for the purposes of argument that such a combination of Anderson and Shipstead is in fact obvious, it is noted that the Shipstead patent provides no indication of whether the arch support pad 8 is mounted on the second strap 5, or simply loosely positioned between the foot and the strap, and thus also does not provide any indication of whether there is any *removable* mounting of the pad 8 to the strap 5. Thus, one of ordinary skill in the art is left guessing as to the nature of the relationship between the pad and the strap

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in Shipstead, and therefore it is submitted that one of ordinary skill in the art could not be led to the claimed "removably mounted" relationship of claim 1.

In the "Response to Arguments" portion of the final Officer Action, it is asserted that:

Addressing the argument concerning the removable pad: contrary to what is stated in the arguments, the examiner contends that for the pad of Shipstead to be removably mounted on the strap/loop of Anderson no attachment means are necessary. The pad could simply be placed in the loop between a foot and the loop and still meet the "removably mounted" limitation.

However, this interpretation of "removably mounted" renders the terms virtually meaningless in the claim. Perhaps more importantly, if "no attachment means are necessary", as asserted in the Office Action, then it is submitted that there is no motivation provided by Shipstead to provide attachment means. In other words, if the Examiner is taking the position that Shipstead suggests to one of ordinary skill in the art that attachment means are not needed, then the motivation has been removed to incorporate attachment means, as those means would be superfluous and unneeded. .

The Office Action further asserted that:

For claims 6 and 7, Anderson in view of Shipstead fails to teach that the loop portion has a pad detachably attached thereto via hook and loop fasteners. The examiner takes Official notice that hook and loop fasteners are well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to connect the pad to the loop portion via hook and loop fasteners, since these fasteners are well known in the art for temporarily but securely attaching members together.

However, simply because hook and loop fasteners are known to those of ordinary skill in the art does not provide any motivation to implement them on the allegedly obvious combination of Anderson and Shipstead, particularly in view of the contention in the Office Action that "attachment means are not necessary" in Shipstead. Thus, if it is contended that

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attachment means are not necessary" for removably mounting the removable pad, why would one of ordinary skill in the art be motivated to incorporate hook and loop fasteners for the purpose of "temporarily but securely attaching members together".

Further, claim 10 further requires "means on said strap for adjusting an effective circumference of said foot loop formed by said strap". This feature of the invention permits the size of the foot loop to be adjusted for different foot sizes so that the foot loop is not too loose (and the foot of the user falls out of the foot loop) or too tight (and the foot of the user becomes pinched or constricted by the foot loop).

The final Office Action concedes that:

Also for claim 1, Anderson fails to teach that the strap includes adjustment means for adjusting the circumference of the loop.

However, the Anderson patent describes a "disabled limb strap" that is only able to form one size of loop, due to the interaction of the D-ring 11 and the V-notches 8 in the strap. Anderson confirms this in lines 16 through 27 of col. 2, where it is stated that:

In operation, the loop 4 of the strap 1 is inserted through the D-ring to form a loop which one may engage around the foot of the injured limb (see Figure 1), preferably adjacent the arch of the foot. The loop 4 may then be pulled through the D-ring until the later enters the V-notches 8 in the holding area 6 and stops against the lugs 9. This forms a stop for the ring and forms a loop of fixed size so that it cannot tighten around one's foot and be uncomfortable, nor will it be difficult to remove one's foot from the loop when desired.

It is submitted that one of ordinary skill in the art, considering the teaching of Anderson, would not see any need for the modification of the Anderson strap to achieve adjustability of the size of the loop of the strap.

It is therefore submitted that the cited patents, and especially the allegedly obvious combination of Anderson, Shipstead, Bugge, and Mertz set forth in the rejection of the Office Action, would not lead one skilled in

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the art to the applicant's invention as required by claims 1 and 10. Further, claims 2 through 9, which depend from claim 1, also include the requirements discussed above and therefore are also submitted to be in condition for allowance.

Withdrawal of the §103(a) rejection of claim 10 is therefore respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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